

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

|                          |   |                     |
|--------------------------|---|---------------------|
| UNITED STATES OF AMERICA | ) |                     |
|                          | ) | CRIMINAL ACTION NO. |
| v.                       | ) | 2:20cr34-MHT        |
|                          | ) | (WO)                |
| KENDRICK DEANTAY FLYNN   | ) |                     |

ORDER

This cause is before the court on defendant Kendrick Deantay Flynn's second motion to continue trial. A hearing was held on May 18, 2020. For the reasons set forth below, the court finds that jury selection and trial, now set for June 15, 2020, should be continued pursuant to 18 U.S.C. § 3161.

While the granting of a continuance is left to the sound discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or

from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

Based on the representations made during a conference call on the record today, the court finds that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and defendant Flynn in a speedy trial. Due to

the COVID-19 pandemic, Flynn's counsel has been unable to prepare for trial effectively by investigating the case, including by interviewing witnesses. Additionally, Flynn's counsel still seeks to speak with counsel for the codefendant as part of her investigation, but the codefendant still has not been appointed counsel because his transfer to federal custody has been delayed due to the pandemic. Additionally, defense counsel recently received a very large number of documents in discovery. Given these issues, it is highly unlikely that Flynn's counsel would be able to complete the necessary investigation and preparation in time for the current trial date. Thus, a continuance is necessary to enable Flynn's counsel to prepare effectively for trial. Furthermore, the government does not oppose the request.

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Accordingly, it is ORDERED as follows:

(1) Defendant Kendrick Deantay Flynn's motion to continue trial (doc. no. 40) is granted.

(2) The jury selection and trial, now set for June 15, 2020, are reset for August 24, 2020, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

The United States Magistrate Judge shall reset pretrial deadlines as appropriate and conduct a pretrial conference prior to the August 24 trial term.

DONE, this the 18th day of May, 2020.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE